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17 UNITED STATES DISTRICT COURT
18 NORTHERN DISTRICT OF CALIFORNIA
19 SAN JOSE DIVISION

20 In re GOOGLE DIGITAL ADVERTISING
21 ANTITRUST LITIGATION

Case No. 5:20-cv-03556-BLF

22 In re GOOGLE DIGITAL PUBLISHER
23 ANTITRUST LITIGATION

Case No. 5:20-cv-08984-BLF

24 **JOINT PROPOSED AGENDA FOR
25 JUNE 10, 2021 CASE MANAGEMENT
26 CONFERENCE**

27 Date: June 10, 2021
Time: 11:00 a.m.
Courtroom: 3 – 5th Floor
28 Judge: Hon. Beth Labson Freeman

1 In accordance with the Court’s Orders dated February 9, 2021 (ECF No. 89), and March 2, 2021
 2 (ECF No. 109), Plaintiffs Hanson Law Firm, PC, Surefreight Global LLC d/b/a Prana Pets, and Vitor
 3 Lindo (collectively, “Advertiser Plaintiffs”), Plaintiffs Genius Media Group, Inc., Sterling International
 4 Consulting Group, The Nation Company, L.P., The Progressive, Inc., Sweepstakes Today, LLC,
 5 JLaSalle Enterprises LLC, and Mikula Web Solutions, Inc. (collectively, “Publisher Plaintiffs”), and
 6 Defendants Google LLC, Alphabet Inc., and YouTube, LLC (collectively, “Defendants” or “Google”),
 7 hereby provide a proposed agenda of issues for the Case Management Conference set for June 10,
 8 2021, at 11:00 a.m. and any positions of which they would like to advise the Court.

9 **1. Update on Judicial Panel on Multidistrict Panel Proceedings**

10 The parties will be prepared to update the Court on the pending MDL proceedings.

11 **2. Case Schedule**

12 The parties wish to discuss scheduling, and the Publisher Plaintiffs and Advertiser Plaintiffs
 13 would like to discuss scheduling Rule 16 and Rule 26 conferences.

14 In addition, Google anticipates filing on June 4, 2021 a Motion to Dismiss the Consolidated
 15 Publisher Complaint filed on April 5, 2021. *See* ECF No. 96. The Publisher Plaintiffs and Google
 16 jointly propose that the Court enter the following briefing schedule for the motion:

Event	Proposed Deadline
Publisher Plaintiffs’ Opposition to Google’s Motion to Dismiss	July 23, 2021
Google’s Reply in Support of its Motion to Dismiss Consolidated Publisher Plaintiffs’ Complaint	August 27, 2021
Hearing on Google’s Motion to Dismiss Consolidated Publisher Complaint	October 14, 2021 (reserved) or such other time as set by the Court

25 **3. Discovery**

26 Publisher Plaintiffs and Advertiser Plaintiffs wish to discuss obtaining early discovery from
 27 Google. Under the Court’s Order Granting Motion to Stay Discovery issued on December 8, 2020,
 28 discovery in the Advertising Case was stayed “until Google either answers the amended complaint or

1 the motion to dismiss hearing date, whichever is earliest.” Case No. 5:20-cv-03556-BLF, ECF No. 53.
 2 Accordingly, as the Court heard Google’s motion to dismiss the Advertiser Case on April 8, 2021, the
 3 parties understand discovery is no longer stayed.

4 On April 30, 2021, both sets of Plaintiffs jointly served Defendants with a First Set of Requests
 5 for Production of Documents that included five requests for the production of documents that Google
 6 already produced: in connection with *State of Texas, et al. v. Google LLC*, No. 4:20-cv-957-SDJ (E.D.
 7 Tex.) and *United States, et al. v. Google LLC*, No. 1:20-cv-03010-APM (D.D.C.), and investigations
 8 related thereto; to the House Committee on the Judiciary, Subcommittee on Antitrust, Commercial and
 9 Administrative Law; to the Senate Committee on the Judiciary, Subcommittee on Antitrust,
 10 Competition Policy, and Consumer Rights; to the United Kingdom’s Competition and Markets
 11 Authority (“CMA”) in connection with the CMA’s Online Platforms and Digital Advertising Market
 12 Study; and to the Australian Competition & Consumer Commission, Digital Platforms Branch in
 13 connection with its Digital Platforms Inquiry, Ad Tech Inquiry, and Digital Advertising Services
 14 Inquiry. Google has not provided written responses or objections to Plaintiffs’ First Set of Requests for
 15 Production of Documents, taking the position that those requests are not deemed served until the
 16 parties’ Rule 26(f) conference, *see* Fed. R. Civ. P. 34(b)(2) and 26(d)(2).

17 Google also takes the position that the requests are overly broad because they seek all
 18 documents that Google produced in several investigations that encompass many issues beyond those
 19 raised in the plaintiffs’ complaints. Producing any subset of documents that might be relevant to these
 20 cases would require a full re-review, using custodians and search terms. Rather than negotiating review
 21 parameters piecemeal, the better and more efficient approach is for the plaintiffs to serve
 22 comprehensive document requests and for the parties to negotiate a comprehensive set of search
 23 parameters.

24 Plaintiffs’ position is that there is no burden to Google from producing these pre-packaged
 25 productions, and Google’s suggestion that there may be extraneous material does not outweigh the
 26 benefit that such re-production would have as Plaintiffs’ develop their claims in this litigation. Nor is
 27 there any need given their prior production in other matters for Google to re-review these documents
 28 when Google can turn them over (subject to the protective order that will be entered in this case) and

1 Plaintiffs can decide for themselves what evidence bears on their claims. Google's proposal to
2 negotiate search terms is far less efficient where it does not deny that these productions to antitrust
3 regulators contain relevant evidence.

4 In addition, on May 28, 2021, both sets of Plaintiffs jointly served their Second Set of Requests
5 for Production of Documents to Defendants, which included a request for the production of documents
6 that Google already produced to the French Competition Authority (L'Autorité de la Concurrence) in
7 connection with the authority's inquiries into Google's ad tech services, as has recently been reported.

8 On April 29, 2021, Publisher Plaintiffs sent Google a letter regarding Google's obligation to
9 preserve documentary and electronic evidence relevant to the claims in the Publisher Plaintiffs' case.
10 Google acknowledges that it must take reasonable measures to preserve relevant documentary and
11 electronic evidence.

12 In addition, building on negotiations that began in the Advertiser Case in 2020, the parties
13 continue to negotiate the terms of a proposed Stipulated Protective Order, a proposed Stipulated Order
14 Regarding Discovery of Electronically Stored Information, and a proposed Stipulated Order
15 Concerning Expert Discovery. The parties anticipate being able to submit such stipulations soon, or to
16 provide the court with a short primer of the parties' respective positions on any areas of disagreement.

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18 * * *

19 The parties look forward to discussing these issues and any other issues the Court raises at the
20 June 10 conference.

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1 Respectfully submitted,

2 Dated: June 3, 2021

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ATTESTATION

I, Caitlin G. Coslett, am the ECF User whose ID and password are being used to file the foregoing document. In compliance with Civil Local Rule 5-1(i)(3), I attest that concurrence in this filing has been obtained from all signatories above.

By: /s/ Caitlin G. Coslett